UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/472,314	12/22/1999	Anil Vasudevan	81674-264191	8582

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PILLSBURY WINTHROP LLP
725 S. FIGUEROA STREET
SUITE 2800
LOS ANGELES, CA   90017

EXAMINER
JACKSON, JENISE E

ART UNIT	PAPER NUMBER
2131	

DATE MAILED: 06/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☐ Responsive to communication(s) filed on _____.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-3,6-11,20 and 23-41* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☒ Claim(s) *28-31* is/are allowed.

6) ☒ Claim(s) *1-3,6-11,20,23-27,32-36 and 38-41* is/are rejected.

7) ☒ Claim(s) *37* is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All   b) ☐ Some *   c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

Claim Rejections - 35 USC § 102

2.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3.   Claims 1-3, 6-10, 20, 23-26, 32-36, 38-40, are rejected under 35 U.S.C. 102(e) as being

anticipated by Mamros et al.

4.   As per claims 1, 10, 32, 38, Mamros et al. discloses a server system(see col. 3, lines 38-

41); a client system(see col. 3, lines 41-45), the server system and the client system executing

processes to provide security mechanisms for securing traffic communication between the two

system(see col. 5, lines 11-24), the processes including key exchange processes executed when

the client system is in an operational state(see col. 5, lines 11-39, col. 6, lines 8-51); logic for

detecting whether the client system is in operational state, this is inherent in Mamros et al.,

because Mamros et al. can detect whether a client is no longer reachable(see col. 6, lines 45-51);

a storage device at the client/server system for storing the results of the key exchange processes,

inherent in ISAKMP, because the key is carried in the channel(see col. 5, lines 25-40, 63-67, col.

6, lines 1-7); logic for inhibiting the stored results of the key exchange from being updated until

a successful execution of another set of key exchange processes between the server system and

the client system(see col. 6, lines 52-67, col. 7, lines 1-17); logic for updating the stored results

of the key exchange if the execution of the other set of key exchange processes is successful; and

logic for using results stored in the memory to secure the traffic(see col. 8, lines 27-67); logic for

executing a first key exchange between the server and client(see col. 5, lines 11-39, col. 6, lines 45-51); communication between the client and the server system utilizing the results of the first key exchange process if the second key process is not successful because the client becomes non-operational(see col. 6, lines 24-61).

5.   As per claims 2-3, Mamros et al. discloses wherein the logic for inhibiting the stored results of the key exchange from being updated is embodied in the client system, the Examiner asserts that the key exchange will not take place if the client/server is no longer reachable(see col. 6, lines 45-51).

6.   As per claims 6, 33, 39, Mamros et al. discloses logic for allowing the traffic communication between the server system and the client system to be sent without security(see col.6, lines 45-51).

7.   As per claims 7, 35, Mamros et al. discloses wherein the client system is a network device(see col. 3, lines 15-30).

8.   As per claims 8, 36, Mamros et al. discloses wherein the storage device is non-volatile storage that is part of an Ethernet device(see col. 4, lines 11-50).

9.   As per claims 9, 34, 40, Mamros et al. discloses wherein the logic inhibiting the stored results of the key exchange from being updated includes, logic for sending a signal acknowledging the successful execution of another set of key exchange processes, and logic for sending a signal confirming receipt of the acknowledgement signal(see col. 7, lines 40-67, col. 8, lines 1-7).

10.   As per claim 20, rejected under the same basis as claim 12.

11.   As per claim 23, rejected under the same basis as claim 6.

12.   As per claim 24, rejected under the same basis as claim 18.

13.   As per claim 26, limitation has already been addressed(see claim 1).

Claim Rejections - 35 USC § 103

14.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

15.   Claims 11, 27, 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Mamros et al.

16.   As per claims 11, 27, 41, the Examiner takes Official Notice that switching the server

system to a second server system when the server system becomes non-operational is well-

known in the art of networking. It would have been obvious to one of ordinary skill in the art at

the time of the invention to include switching the server system to a second server system when

the server system becomes non-operational, the motivation is that the second server acts as a

backup to primary server in case the primary server becomes non-operational, and thus the

network itself will not fail, because the secondary server acts as a backup.

17.   As per claims 28-31 are allowable because prior art fails to disclose transmitting

management Internet packets from the server to the client if the client is non-operational to

perform diagnostic operations on the client. Prior art of Mamros does not disclose this because

Mamros discloses transmitting a keepalive message in order to communication open between

client and server. In contrast, no diagnostic operations are performed in Mamros.

18.   As per claim 37 is objected to as being dependent on base claim.

Response to Amendment

19.   The Applicant states that Mamros does not disclose where the keys are stored after the

key exchange process. Further, the Applicant states that there is no discussion of any logic or

structure that inhibits stored keys information from being updated. The Examiner disagrees with

both remarks. Mamros inherently discloses that the keys are stored after the key exchange

process, because Mamros discloses a security association(see col. 6, lines 13-17). Proof of

which, is provided from Boden(6643776), which discloses that a security policy database is a

collection of rules which define how to select IP traffic for the various security associations. The

security associations are stored in the security policy database(see col. 35-41).

20.   Further, the stored keys that are inherent in Mamros, are updated, because Mamros states

that the keys can be renegotiated or rekeyed(see col. 6, line 59).

21.   The Applicant states that Mamros discloses that the communication between the server

and client is torn down and thus the first key cannot be used in the key exchange because no

communication is taken place. The Examiner disagrees with the Applicant, Mamros discloses

that the security association is not torn down until the timeout exception occurs which is only

after the renegotiation request, which is for a key so communication is still open(see col. 7, lines

7-16).

22.   Applicant's arguments in regards to claims 28-31 are persuasive, and thus are

allowed(reasons above).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jenise E Jackson whose telephone number is (703) 306-0426. The examiner can normally be reached on M-Th (6:00 a.m. - 3:30 p.m.) alternate Friday's.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on (703) 305-9648. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-0040 for regular communications and (703) 308-6306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

May 27, 2004

AYAZ SHEIKH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100